

REMARKS

The Final Office Action mailed February 14, 2006, has been received and reviewed. Claims 1 through 43 are currently pending in the application. Claims 1 through 42 are allowed. Claim 43 stands rejected. Applicants amend claim 43 herein, and respectfully request reconsideration of the application as amended herein.

The amendments and remarks herein are submitted in conjunction with a REQUEST FOR CONTINUED EXAMINATION and with an INFORMATION DISCLOSURE STATEMENT. The IDS includes identification of an article by Itoh et al. which was cited in both of the related applications, but which was inadvertently omitted from the Information Disclosure Statements previously filed in the pending application.

35 U.S.C. § 102(e) Anticipation Rejections

Anticipation Rejection Based on U.S. Patent No. 5,973,910 to Gardner et al.

Claim 43 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Gardner et al. (U.S. Patent No. 5,973,910). Applicants respectfully traverse this rejection, as hereinafter set forth.

The Final Action alleges that claim 43 is anticipated by Gardner et al. “[b]ecause there is not seen that the word ‘above’ precludes the sleeve insulator from contacting the semiconductor substrate.” *See, Final Action* at p. 3. Claim 43 is amended herein to include recitations which make it clear that the method recited in claim 43 includes the formation of a sleeve insulator having “an opposite terminus that is below the capacitor dielectric layer and above, and not in contact with, the semiconductor substrate.” The amendments to claim 43 preclude the sleeve insulator from contacting the semiconductor substrate.

The structure and methods of Gardner et al. do not describe a sleeve insulator that is not in contact with a semiconductor substrate. Thus, Gardner et al. fails to expressly or inherently describe all of the recitations of claim 43. The failure of Gardner et al. to provide such a description precludes an anticipation rejection of claim 43 under 35 U.S.C. § 102(e). *See, Verdegaa Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully request withdrawal of the 35 U.S.C. § 102(e) rejection of claim 43.

ALLOWED SUBJECT MATTER

Applicants appreciate the notification that claims 1 through 42 are allowable.

ENTRY OF AMENDMENTS

The amendments to claim 43 are supported by the as-filed specification and drawings and do not add any new matter to the application.

CONCLUSION

Claims 1 through 43 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,



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